MAGASU SUNDRAM T MAGASU & ORS

v.

PENTADBIR TANAH WILAYAH PERSEKUTUAN KUALA LUMPUR

HIGH COURT MALAYA, KUALA LUMPUR
AZMEL MAAMOR J
[ORIGINATING SUMMONS NO: S6-15-06-2000]
22 FEBRUARY 2003

CIVIL PROCEDURE: *Parties - Intervention - Application to be added as a party to proceedings between claimants and land administrator - Acquisition of land - Compensation - Persons interested, meaning of - Whether must have an interest in acquired land - Whether an interest in compensation to be awarded sufficient - Whether person having an interest in compensation should be made a party to proceedings between claimants and land administrator - Land Acquisition Act 1960, ss. 2, 14(2)*

LAND LAW: *Acquisition of land - Compensation - Persons interested, meaning of - Whether must have an interest in acquired land - Whether an interest in compensation to be awarded sufficient - Whether person having an interest in compensation should be made a party to proceedings between claimants and land administrator - Land Acquisition Act 1960, ss. 2, 14(2)*

WORDS & PHRASES: *"persons interested" - Land Acquisition Act 1960, ss. 2, 14(2)*

This was an application ('the instant application') by the intended intervener to be added as a party to the present proceedings brought by the three claimants herein against the land administrator for compensation for land acquisition. The salient facts which led to the instant application were: that the 1st claimant was dissatisfied with the compensation awarded to him for the acquisition of his lands; that the 1st claimant had subsequently appointed the intended intervener to procure a higher award of compensation for him; and that the 1st claimant had agreed to pay the intended intervener 10% of any additional compensation he managed to obtain. The issue central to the determination of the instant application was whether the intended intervener fell within the scope of the phrase "persons interested" in ss. 2 and 14(2) of the Land Acquisition Act 1960 – such that he should be made a party to the present proceedings between the claimants and the land administrator.

Held:

[1] The term "persons interested" is inexhaustive and inconclusive; thus a person may be said to be a 'person interested' if he has an interest in the land, directly or indirectly, or if he has an interest in the compensation to be awarded for the acquired land. Consequently, the intended intervener herein, having been appointed to procure a higher award of compensation on behalf of the 1st claimant and having been promised a 10% share of any additional compensation he could obtain, came within the ambit of the phrase "persons interested" in ss. 2 and 14(2) of the Land Acquisition Act 1960. The intended intervener need not have an interest in the acquired land. (pp 425 b-h & 426 a)

[Intended intervener's application to be added as a party allowed.]

Case(s) referred to:
Himalayan Tiles v. FV Coutinho [1980] AIR SC 1118 ***(foll)***
Sunderlal v. Paramsuladas AIR [1968] SC 306 ***(foll)***

Legislation referred to:
Land Acquisition Act 1960, ss. 2, 14(2)

Other source(s) referred to:
VG Ramachandran, *The Law of Acquisition and Compensation,* vol 1, pp 2, 3

For the 1st applicant - YH Lim; M/s Yew Hock & Loh
For the 2nd applicant - Savinderjeet Singh; M/s Atma Singh Veriah & Co
For the respondent - Abdul Aziz Abdul Rahim SFC
For the intended intervener - CP Mahendran; M/s RR Chelliah Brothers

Reported by Gan Peng Chiang

JUDGMENT

Azmel Maamor J:
This is an application by the intended intervener, Muthu a/l Murugiah, to be included as a party to this action (encl. 56). The 1st and 2nd applicants as well as the respondent opposed this application.

The brief facts that led the intended intervener to make this application are as follows. The 1st applicant and his brother Sivapathy were not very satisfied with the amount of award received by them in respect of the compensation for the acquisition of their lands, namely, Lots PT3717, PT 3718 and PT 3719. The 1st applicant was only awarded RM85 per sq. ft. whereas the market value of property in the area was found to be RM200 per sq. ft. As such the two brothers appointed the intended intervener to do the necessary with a view to

obtaining a bigger amount of compensation for the acquisition. The intended intervener informed the 1st applicant that he could make a case for further compensation on the following grounds:

(i) Revaluation upwards of the RM85.00 per square foot originally mistakenly agreed to;

(ii) Compensation for injurious affection;

(iii) Compensation of the surrendered land, which was overlooked as a result of the issuing of new titles in accordance with the approved development plan which excluded the surrendered land as compensation was based strictly on the new title. The amendments to s. 9 of the Land Acquisition Act 1960 with the incorporation of s. 9A established new principles on the amount of compensation being awarded. The damages the 1st Applicant is entitled to as a result of having to abort the Development Project, for which 31,703 feet was surrendered to the authorities has to be assessed in accordance with s. 1(2) and s. 2(d) of the 1st Schedule of the Land Acquisition (Amendment) Act 1977.

The intended intervener then prepared a letter on behalf of the 1st applicant to the Land Administrator to seek further compensation. For the work done by the intended intervener the 1st applicant agreed to give him 10% of the additional compensation to be received by the 1st applicant. The above facts were not challenged by any of the applicants as well as the respondent.

The only issue that needed to be determined in this case is whether the intended intervener comes within the meaning of "persons interested" in order to justify him to be made a party to this suit. This becomes quite necessary in the light of the provisions of s. 14(2) of the Land Acquisition Act 1960, which states:

> Every award prepared under subsection (1) shall be filed in the office of the Land Administrator and shall be final and conclusive evidence of the area of any scheduled land, of its value in the opinion of the Land Administrator, and of the apportionment of the compensation awarded by the Land Administrator, **whether the persons interested have or have not appeared at the inquiry**. (emphasis added).

In this Act, the term "persons interested" has been defined under s. 2 as follows:

> 'persons interested' includes every person claiming an interest in compensation to be made on account of the acquisition of land under this Act, but does not include tenant at will.

The 1st and 2nd applicants as well as the learned senior federal counsel representing the respondent in this case had opposed the application by the intended intervener on the ground that he was not a person within the meaning of "persons interested" as defined under the said Act.

I must admit that there has not been any Malaysian case which had dealt with this issue. However counsel for the intended intervener referred to an authority in the 1st applicant's bundle of authorities. Page 3 of the 1st applicant's bundle of authorities refers to the content of a book entitled *"The Law of Land Acquisition and Compensation"* written by VG Ramachandran, vol. 1. In dealing with the definition of "a person interested" the author, at p. 2 stressed that the definition of the term clearly is not exhaustive. At p. 3, the author quotes the observation of the Indian Supreme Court in the case of *Sunderlal v. Paramsuladas* AIR [1968] SC 306 as follows:

> **It is not necessary that in order to fall within the definition a person should claim an interest in land which has been acquired.** A person becomes a person interested if he claims an interest in compensation to be awarded. (emphasis added).

On the same p. 3, the learned author went on to quote the decision of another Indian Supreme Court case *Himalayan Tiles v. F.V. Coutinho* [1980] AIR SC 1118 as follows:

> ... it seems to us that the definition of the term is an inconclusive one and must be liberally construed to embrace all persons **who may be directly or indirectly interested either in the title of the land or in the question of compensation.**

Based on the circumstances as mentioned above the following conclusion can be made. The term "persons interested" is inconclusive and a person can be said to be a person interested if he has interest in the land either directly or indirectly or if he has an interest in the compensation in respect of the land acquired.

On the evidence adduced it was my finding that the intended intervener had been appointed by the 1st applicant to prepare the necessary work for the purpose of obtaining additional compensation in respect of the land that had been acquired by the respondent, and that, the intended intervener had been promised that he would receive from the 1st applicant an amount of 10% of the additional compensation that the 1st applicant could receive from the respondent. In my view based on such facts and applying the above said principle the intended intervener would certainly come within the term "persons interested" as defined under the said Act. He need not have to be a person

interested in the land that was acquired. On the facts adduced he had clearly proved that he was a person interested in the 10% of the additional compensation to be awarded.

For the reasons that I have stated above I allowed the intended intervener's application. I ordered that costs be in the cause.